



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

ELP
Docket No. 4736-00
15 December 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 12 December 2000. Your

allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 9 November 1978 for four years at age 19. The record reflects that you were advanced to AN (E-3) and changed your rate to AMHAN upon completion of "A" school. You served without incident until 20 June 1980 when you received nonjudicial punishment (NJP) for two instances of failure to go your appointed place of duty and drunk on duty. However, on 17 July 1980 you were advanced to AMH3 (E-4) and served for the next six months without incident.

During the 14 month period from January 1981 to March 1982 you received four more NJPs for offenses which consisted of larceny of government property (a carton of cigarettes), three instances of failure to obey an order to make restricted muster and to

remain in the restricted area, possession of marijuana, drinking on duty, use of provoking words or gestures, indecent exposure, and breaking restriction. After the third NJP, you were counseled regarding your misconduct and warned that failure to take corrective action could result in administrative separation under other than honorable conditions. During the foregoing period, a medical officer also determined that you were not drug dependent.

On 25 March 1982 you were notified that you were being processed for administrative separation by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. You were advised of your procedural rights and told that if discharge was approved, it could be under other than honorable conditions. You declined to consult with legal counsel and waived the right to present your case to an administrative discharge board (ADB). Thereafter, the commanding officer recommended your discharge by reason of misconduct. On 12 May 1982, the Chief of Naval Personnel directed discharge under other than honorable conditions by reason of misconduct. You were so discharged on 28 May 1982.

The Naval Discharge Review Board (NDRB) denied your request for an upgrade of your discharge on 10 February 1987.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity and the fact that it has been more than 18 years since you were discharged. The Board noted the issues you presented to the NDRB and your contention that the discharge has hindered your employment opportunities. The Board concluded that these factors and contention were insufficient to warrant recharacterization of your discharge given your record of 11 offenses for which you received five NJPs. The Board noted the aggravating factor that you waived an ADB, the one opportunity you had to show why you should be retained or discharged under honorable conditions. You have provided neither probative evidence nor a convincing argument in support of your application. The fact that your discharge may adversely affect any future endeavors does not provide a valid basis for recharacterizing service. The Board concluded that the discharge was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board.

In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director